

AMENDED IN ASSEMBLY MARCH 28, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1789

Introduced by Assembly Member Zettel

(Coauthors: Assembly Members Ashburn, Bates, Battin, Cox, Cunneen, Dickerson, House, Leach, Maddox, Margett, and Oller)

(Coauthor: Senator Rainey)

January 26, 2000

An act to amend Section 12022.7 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1789, as amended, Zettel. Sentencing: great bodily injury: child.

Existing law requires imposition of an enhanced penalty of 3 years upon a person who personally inflicts great bodily injury upon a person other than an accomplice during the commission or attempted commission of a felony. Imposition of an enhanced penalty of 5 years is required if the person personally inflicts great bodily injury on another person who is 70 years of age or older other than an accomplice during the commission or attempted commission of a felony.

This bill would require under the above provision, imposition of an enhanced penalty of 5 years upon a person who personally inflicts great bodily injury on a child under the age of 8 years in the commission or attempted commission of a felony. By imposing an additional penalty that must be pled

and proven, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12022.7 of the Penal Code is
2 amended to read:

3 12022.7. (a) ~~Any~~ A person who personally inflicts
4 great bodily injury on any person other than an
5 accomplice in the commission or attempted commission
6 of a felony shall, in addition and consecutive to the
7 punishment prescribed for the felony or attempted
8 felony of which he or she has been convicted, be punished
9 by an additional term of three years, unless infliction of
10 great bodily injury is an element of the offense of which
11 he or she is convicted.

12 (b) ~~Any~~ A person found to have inflicted great bodily
13 injury pursuant to subdivision (a) which causes the victim
14 to become comatose due to brain injury or to suffer
15 paralysis, as defined in Section 12022.9, of a permanent
16 nature, shall be punished by an additional and
17 consecutive term of five years.

18 (c) ~~Any~~ A person who personally inflicts great bodily
19 injury on a child under the age of eight years or on a
20 person who is 70 years of age or older, other than an
21 accomplice, in the commission or attempted commission
22 of a felony shall, in addition and consecutive to the
23 punishment prescribed for the felony or attempted
24 felony of which he or she has been convicted, be punished
25 by an additional term of five years, unless infliction of
26 great bodily injury is an element of the offense of which
27 he or she is convicted.



1 (d) ~~Any~~ A person who personally inflicts great bodily
2 injury under circumstances involving domestic violence
3 in the commission or attempted commission of a felony
4 shall, in addition and consecutive to the punishment
5 prescribed for the felony or attempted felony of which he
6 or she has been convicted, be punished by an additional
7 term of three, four, or five years. The court shall order
8 imposition of the middle term unless there are
9 circumstances in aggravation or mitigation. The court
10 shall state its reasons for its enhancement choice on the
11 record at the time of sentencing. As used in this section,
12 “domestic violence” has the meaning provided in
13 subdivision (b) of Section 13700.

14 (e) As used in this section, “great bodily injury” means
15 a significant or substantial physical injury.

16 (f) This section shall not apply to murder or
17 manslaughter or a violation of Section 451 or 452. The
18 additional term provided in this section shall not be
19 imposed unless the fact of great bodily injury is charged
20 in the accusatory pleading and admitted or found to be
21 true by the trier of fact.

22 (g) The court shall impose the additional terms of
23 imprisonment under either subdivision (a), (b), or (c),
24 but may not impose more than one of those terms for the
25 same offense.

26 SEC. 2. No reimbursement is required by this act
27 pursuant to Section 6 of Article XIII B of the California
28 Constitution because the only costs that may be incurred
29 by a local agency or school district will be incurred
30 because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition
34 of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.